

### REMARKS

This responds to the Office Action dated July 12, 2006, and the references cited therewith.

Claims 1 and 11 are amended. Claims 1-20 are now pending in this application.

#### §102 and §103 Rejection of the Claims

Claim 1, 2, 4, 5, 7 and 8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Adams et al. (U.S. 2003/0229380). Claims 3, 6, 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. (U.S. 2003/0229380). The rejections are traversed and reconsideration is respectfully requested.

As best understood, the Adams et al. reference describes the use of parasympathetic stimulation to reduce heart rate. Parasympathetic stimulation has this effect by acting directly or indirectly on the sino-atrial node in a manner that reduces the heart's intrinsic rate. The sino-atrial node controls heart rate by producing spontaneous excitation of the atria that are conducted to the ventricles through the atrio-ventricular node. The Adams et al. reference nowhere describes the use of parasympathetic stimulation in order to reduce myocardial wall stress as described in the present application. The Adams et al. reference does not teach or suggest delivering parasympathetic stimulation while the atria are being paced since such stimulation would have no effect on heart rate. Although the Adams et al. reference does mention at paragraph 55 that the features of its invention could be incorporated into various commercially available products such as an ICD or a DDDR pacemaker, it does not in any way discuss the delivery of parasympathetic stimulation while pacing the heart. As previously noted, it would make no sense to deliver parasympathetic stimulation for the purpose of reducing the intrinsic heart rate while simultaneously maintaining the heart rate with pacing pulses. Applicant has amended independent claims 1 and 11 herein to recite a device and method, respectively, in which parasympathetic stimulation is delivered simultaneously with the delivery of atrial and multi-site ventricular pacing. Applicant believes that the description of parasympathetic stimulation described in the Adams et al. reference actually teaches away from applicant's claimed inventions since such parasympathetic stimulation will not reduce heart rate if the atria are simultaneously being paced.

Applicant respectfully submits that claims 1 and 11 as amended herein are patentable over the prior art of record. Dependent claims 2-10 and 12-20 recite additional limitations that deal with modulating parasympathetic stimulation in accordance with sensed physiological variables in a manner that does not depend on reducing or increasing intrinsic heart rate for which applicant further finds no teaching or suggestion in the prior art of record.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JOSEPH M. PASTORE ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(847) 432-7302

Date 11-13-06

By

J. Kevin Parker

Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22315-1450 on this 13 day of November 2006.

Name

Paula Suchy

Signature

Paula Suchy